

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

SANTANNA NATURAL GAS CORPORATION,)

Plaintiff,)

vs.)

CONTINENTAL FINANCIAL MORTGAGE,)
INC.,)

Defendant)

Case No.: 03M1-126454

FILED-48
05 MAY 31 PM 1:52
CLERK
MUNICIPAL DEPARTMENT
COURT OF COOK COUNTY

NOTICE OF FILING

Mr. Paul Markoff
Crowley, Barrett & Karaba, Ltd
20 S. Clark, Suite 2310
Chicago, IL 60603

PLEASE TAKE NOTICE that on this date, May 31, 2005, we have submitted for filing the enclosed Verified Answer to Counterdefendant's Second Amended Complaint and Counterclaim on behalf of Continental Financial Mortgage to the Cook County Circuit Court and have provided a Courtesy Copy for the Honorable Moria S. Johnson..

Dated: May 31, 2005



Barbara R. Miller, for Chuk Nwaneshiudu-pro se

Name: Chuck Nwaneshiudu and Barbara R. Miller
Attorney: None - Pro se
Address: 500 E. 33rd Street, #1100
City: Chicago, Illinois 60616
Telephone: 312-420-1276

CERTIFICATE OF SERVICE

I, Barbara Miller, defendant/pro se, hereby certify that I served the above-mentioned document upon all active parties of record by either electronic mail, Priority Mail, overnight delivery (United Parcel Service) or United States Mail, first class postage, prepaid.



Barbara Miller for Chuk Nwaneshiudu-pro se

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

SANTANNA NATURAL GAS CORPORATION,)
Plaintiff,)

vs.)

CONTINENTAL FINANCIAL MORTGAGE)
GROUP INC.,)
Defendant)

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**DEFENDANT/COUNTERPLAINTIFF CONTINENTAL FINANCIAL MORTGAGE GROUP'S
ANSWER TO SECOND AMENDED COMPLAINT AD COUNTERCLAIM**

NOW COMES the Defendant/Counterplaintiff, CONTINENTAL FINANCIAL MORTGAGE GROUP, INC., by and through its representative Chuk Nwaneshiudu (:Nwaneshiudu") its Answer to Plaintiff Santanna Natural Gas Corporation d/b/a SANTANNA ENERGY SERVICES (hereinafter 'Santana") Second Amended Complaint, Defendant/Counterplaintiff's states as follows:

BREACH OF CONTRACT

1. Defendant admits the allegations contained within Paragraph 1.
2. Defendant admits the allegations contained within Paragraph 2.
3. Defendant admits the allegations contained within Paragraph 3.
4. Defendant denies the allegations contained within Paragraph 4.
5. Defendant admit the allegations contained within Paragraph 5.
6. Defendant denies the allegations contained within Paragraph 6. Defendant disputes

the agreement's validity, as it was fraudulently induced. Defendant further alleges that Plaintiff overcharged it for services and that Plaintiff's representatives failed to satisfactorily resolve Defendant's billing issues;

7. Defendant denies the allegations in paragraph 7. Defendant entered into an oral agreement to purchased gas from Plaintiff beginning January 2000 through October 2001; the contract was signed with Counterdefendant on August10, 2001; gas services under the contract began October 1, 2002;

8. Defendant admits to general billing without details from Peoples Gas;

9. Defendant denies the allegations contained within Paragraph 9. See Defendant's Counter-Claim.

10. Defendant denies the allegations contained within Paragraph 10. See Defendant's Counter-Claim.

11. Defendant denies the allegations contained within Paragraph 11.

12. Defendant denies the allegations contained within Paragraph 12. Dee Defendant's Counter-Claim.

**COUNTERCLAIM OF DEFENDANT/COUNTRPLAINTIFF CONTINENTAL FINANCIAL
MORTGAGE GROUP, INC**

FACTS COMMON TO ALL COUNTS

1. The Counterplaintiff, CONTINENTAL FINANCIAL MORTGAGE GROUP, Inc was a business corporation qualified to do business in and regularly conducting business in the State of Illinois, and was a corporation of the State of Illinois. The Company was dissolved on June 1, 2002.

2. The Counterdefendant, SANTANA NATURAL AS CORPORATION d/b/a SANTANNA ENERGY SERVICES, is a business corporation qualified to do business in and regularly conducting business in the State of Illinois, and is a corporation of the State of Texas.

3. Counterplaintiff, CONTINENTAL FINANCIAL MORTGAGE entered into a verbal agreement with Counterdefendant four alternative gas services in January 2000. On August 10, 2001, Counterplaintiff, CONTINENTAL FINANCIAL MORTGAGE GROUP, INC entered into a written contract with Counterdefendant, SANTANNA, for natural gas service beginning October 1, 2001 and ending September 30, 2002.

4. Counterdefendant did not provide Counterplaintiff with detailed billing statements until January 2002;

5. Upon receipt of said invoices, Counterplaintiff became aware of undisclosed billing practices by Counterdefendant.

6. Counterdefendant failed to disclose important information about their program, including but not limited to:

- a. failing to disclose information on a flexible-rate program that would have better suited Counterplaintiff's needs and thereby preventing Counterdefendant from having a choice in the Choices for Us Program;
- b. that Counterplaintiff's must pay for gas and gas storage before use;
- c. that such buying practices would increase summer bills, in some cases in excess of winter bills;
- d. that People's Gas would continue to generate invoices without details;
- e. that payments must be directed to People's Gas on behalf of Counterdefendant;
- f. that such payments would not be applied to Counterplaintiff's portion of the bill until the outstanding bill for People's Gas was paid, in full;
- g. that this billing practice would result in double late fee charges from both Counterdefendant and People's Gas and impact greatly upon Counterdefendant's ability to submit timely payments;

7. Counterplaintiff made several unsuccessful attempts to resolve the billing discrepancies with Counterdefendant from January 2001 to December 2003;

8. Counterdefendant did not take Counterplaintiff's complaint seriously and demanded full payment;

9. Counterplaintiff informed Counterdefendant of its intent to terminate the contract as early as February of 2002.

10. Counterdefendant made promises to Counterplaintiff with the intent of encouraging it not cancel the contract.

11. Counterplaintiff relied on the representations of Counterdefendant;

12. Counterdefendant did not take Counterplaintiff's billing issues seriously and failed to investigate Counterplaintiff's complaint and also failed to inform Counterplaintiff of alternative resolution options;

13. Counterplaintiff had no other choice but to file a complaint with the Citizens Utility Board and the Office of the Illinois Attorney General; based on similar complaints filed, the Attorney General later ordered Counterdefendant to cease and desist its questionable business practices in September 2003;

14. Counterdefendant filed a retaliatory Breach of Contract complaint against Counterplaintiff, and received an exparte judgment in the amount of \$22,722 which was later vacated;

15. Counterdefendant entered the \$22,722 judgment on Counterplaintiff representative's personal credit record, before the 28 days period to respond or plead had ended;

16. Counterplaintiff's representative has been unsuccessful in having the judgment removed from his personal credit record;

17. Counterdefendant either knew or should have known that its representations regarding the natural gas package were false, or its reckless disregard for the truth or falsity of its representations would impact upon Counterplaintiff's ability to provide timely payments to Counterdefendant;

18. Counterplaintiff suffered actual damages in reliance on Counterdefendant's misrepresentations and by Counterdefendant's failure to disclose material facts, including;

- a. purchase of natural gas package which failed to conform to the basis of the oral bargain;
- b. loss of all of 25-30% savings promised by the Counterplaintiff for the natural gas package; and,
- c. loss of time from work and income;
- c. Severe aggravation and inconvenience as a direct result of Counterdefendant filing a frivolous, retaliatory and unwarranted complaint

19. Counterplaintiff's actions of purchasing a natural gas package from Counterdefendant are akin to all consumer's actions and thus concerns all consumers;

20. Counterdefendant's failure to resolve Counterplaintiff's billing issue left Counterplaintiff with no other option for remedy but to file a complaint with the Citizen Utility Bureau and with the Illinois Attorney General's

Office which is a cause for consumer protection concerns, as Counterdefendant holds itself out to be a place of business where consumers can purchase natural gas.

21. Counterdefendant's retaliatory actions were done with malice and/or willful, wanton and reckless disregard for the rights of Counterplaintiff thereby warranting substantial punitive damages.

22. Counterplaintiff has made several unsuccessful attempts from January 2001 to December 2003 to resolve billing issues with Counterdefendant.

23. Counterdefendant ignored Counterplaintiff's request for a third-party audit of its account and filed a Breach of Contract complaint against Counterplaintiff.

24. At all times, Counterplaintiff has had every intent to pay Counterdefendant once an accurate amount has been established, based on a third-party audit of Counterplaintiff's account.

**COUNT I
COUNTERDEFENDANT'S VIOLATION OF THE ILLINOIS CONSUMER FRAUD ACT**

25. Counterplaintiff re-alleges paragraphs 1-24

26. Counterdefendant has engaged in the trade of commerce of advertising, offering for sale and selling natural gas to Illinois consumers participating in the Northern Illinois gas Company's ('NICOR) Customer Select Program, and People's Energy Choices for You Program, which allow consumers in eligible service areas to select an alternative, non-utility gas supplier to consumers within the State of Illinois.

27. Counterdefendant marketed its gas supply services to NICOR Customer Select and People's Energy Choice for you customers through telemarketing, print ad materials, and door-to-door solicitations.

28. Counterdefendant engaged in the following unfair or deceptive acts or practices in violation of Section 2 of the Consumer Fraud Act in that during the course of its telemarketing solicitations, in order to induce consumers to enter into gas supply contracts, Counterdefendant made material misrepresentations or failed to disclose material information to consumers, including the following conduct:

- d. Failing to disclose that during summer months, consumers would be billed for gas in excess of their monthly usage and will consequently experience higher summer gas bills;

- e. Failing to disclose that the supply contract requires a 36-month commitment by the consumer;
- f. Failing to disclose that Counterdefendant reserves the right to penalize the consumer for any early cancellation of the 36-month contract, and that such fee will be determined by the amount of therms Countedefendant would have delivered to consumer during the remainder of the contract period, and immediately due upon he consumer's withdrawal from the program; and
- g. Making misleading statements with regard to the levels of past savings and failing to disclose that Counterdefendants past performance does not guarantee future rates or future savings.

29 Counterdefendant engaged in the following unfair or deceptive acts or practices in violation of Section 2 of the Consumer Fraud Act in that Counterdefendant's print promotional materials made material misrepresentations, or failed to disclose material information to consumers, in order to induce them to enter into gas supply contracts, including the following:

- a. Failing to disclose that Counterdefendant's supply contracts mandate a 36-month commitment by the consumer; and
- b. Failing to disclose that Counterdefendant reserves the right to penalize the consumer for any early cancellation of the 36-month contract and that such fee will be determined by the amount of therms Counterdefendant would have delivered to consumer during the remainder of the contract period, and immediately due upon the consumer's withdrawal from the program.

30. Counterdefendant engaged in the following unfair or deceptive acts or practices in violation of Section 2 of the Consumer Fraud Act in that Counterdefendant's introduction letter made material misrepresentations, or failed to disclose material information to consumers, denying consumers a fair understanding of the terms and conditions of their contracts with Counterdefendant, including but not limited to the following:

- a. Failing to adequately disclose that during summer months consumers will be billed for gas in excess of their monthly usage, and will consequently experience higher summer gas bills;
- b. Failing to disclose that the supply contract requires a 36-month commitment by the consumer;
- c. Failing to disclose that the Counterdefendant reserves the right to penalize the consumer for any early cancellation of the 36-month contract and that such fee will be determined by the amount of therms Counterdefendant would have delivered to consumer during the remainder of the contract period, and immediately due upon the consumer's withdrawal

from the program; and

- d. Making misleading representations that Counterdefendant's storage program provides consumer with a unique benefit, when in fact, summer purchase and storage of gas is a typical industry practice; the only difference is Counterdefendant's practice of charging consumers before use, that distinguishes Counterdefendant's program.
- e. Failing to resolve legitimate billing issues before seeking legal remedy;

31. Counterplaintiff suffered damages as a result of Counterdefendants unfair and deceptive acts and practices, as measured by the amount of money owed to Counterplaintiff.

32. Counterdefendant's unfair and deceptive acts and practices were done willfully and intentionally, with an evil motive and with reckless indifference to the rights of the Counterplaintiff. Accordingly, Counterplaintiff is entitled to an award of punitive damages.

33. Counterdefendant's attorney used made unfounded legal threats to encourage Counterplaintiff's attorney to withdraw from the case, leaving Counterplaintiff without legal representation;

WHEREFORE, Counterplaintiff requests that the Court to:

- A. Reschedule Mandatory Arbitration
- B. Supervise an impartial audit of Counterplaintiff's account;
- B. Determine actual amount due Counterdefendant, minus attorney fees, late charges and interest fees;
- C. Award appropriate compensatory and punitive damages;
- D. Award attorney's fees, legal expenses and costs; and
- E. Other relief deemed appropriate.

**COUNT II
COMMON LAW FRAUD
COUNTERDEFENDANT**

34. Counterplaintiff re-alleges paragraphs 1-24;

35. Counterdefendant has engaged in common law fraud in the same manner as it has committed violations of the Consumer Fraud Act, as detailed in paragraph 8.

36. At all times, Counterdefendant was aware that if Counterplaintiff knew of

Counterdefendants billing practices it would not have purchased the natural gas package.

37. Counterdefendant intentionally committed the acts above and took all money received by the Counterplaintiffs for personal gain.

WHEREFORE, Counterplaintiff requests that the Court award:

- A. Appropriate compensatory and punitive damages; and
- B. Other relief deemed appropriate.

**COUNT III
COUNTERDEFENDANT'S VIOLATION OF THE ILLINOIS COMMERCE COMMISSION'S
RULE GOVERNING BILLING DISPUTES**

38. Counterplaintiff re-alleges paragraphs 1-24;

39. Counterdefendant failed to take Counterplaintiff's billing issue seriously and refused to investigate Counterplaintiff's billing complaints;

40. Counterdefendant stated its invoices were correct and failed to inform Counterplaintiff of other options to resolve billing complaints;

41. Counterdefendant file a Breach of Contract case against Counterplaintiff's in order to force Counterplaintiff to pay invoices that were in dispute that;

42. Counterdefendant created new invoices in its Breach of Contract complaint that reflect over \$3,500 in credit for 2001 and thousands of dollars in credit for 2002, these credits supports Counterplaintiff's initial claim that Counterdefendant's invoices and billing were incorrect.

WHEREFORE, Counterplaintiff humbly requests the Court to:

- A. Dismiss Counterdefendant's complaint;
- B. Reschedule Mandatory Arbitration;
- C. Supervise an audit of Counterplaintiff's account, to determine actual amount due Counterdefendant, minus attorney fees, late charges and interest;
- D. Award appropriate compensatory and punitive damages; and
- C. Award attorney fees and legal fees to Counterplaintiff's attorney who withdrew from the case based on unfounded threats by Counterdefendant's attorney;

- D. Instruct Counterdefendant to remove the \$22,722 judgment from Counterplaintiff
representatives personal credit record;
- E. Award other relief deemed appropriate.

WHEREFORE, the Counterplaintiff, respectfully pray that this Honorable Court strike the
claim filed by this Counterdefendant and enter judgment in accordance with the prayer for relief in
Counterplaintiff's Counterclaim.

Respectfully submitted PRO SE:

CONTINENTAL FINNCIAL
MORTGAGE GROUP, INC.

By: _____
Chuk Nwaneshiudu,
Counterdefendant Representative

Chuk Nwaneshiudu
Barbara Miller
500 E. 33rd Street - #1100
Chicago, IL 60616
312-420-1276

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Answer to Amended Complaint are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she believes the same to be true.

Continental Financial Mortgage, Inc.